

Amendment No. 12 to SB1933

Southerland  
Signature of Sponsor

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 1933\***

**House Bill No. 1421**

by deleting Section 8 of the bill as amended in its entirety and substituting instead the following:

SECTION 8. Upon receipt of a certificate of franchise authority, the holder of a state issued certificate of franchise authority shall within sixty (60) days notify any affected municipality or county which has been designated in the application for the purpose of submitting, negotiating, obtaining approval and implementing a build out plan for such municipality or county. No holder of a state certificate of franchise authority may commence construction until it receives approval of a build out plan from the designated municipality or county. Each designated municipality or county shall have the discretionary authority to impose reasonable build out requirements, consistent with federal law, upon the holder of a state certificate of franchise authority. Upon receipt of a complete build out plan, the municipality or county shall have ninety (90) days to review and either accept or reject, in whole or in part, the submitted plan. In the event the municipality or county has not taken action within such time, the plan shall be deemed accepted. Recognizing that one of the principal purposes of this act is to bring more choice to as many Tennesseans as possible, each municipality or county is authorized to impose reasonable build out requirements, including, but not limited to, the following:

- (1) A timetable for the provision of service to the households and businesses in the area;
- (2) Provision of detailed as-built maps of the current plant, if any, growth projected and plans regarding same;
- (3) Provision of full network drawings using a computer animated design (CAD) system; and
- (4) Construction schedules including commencement, completion, and

activation schedules.

The municipality or county shall not impose requirements more stringent than those imposed upon the incumbent cable provider in such area to be served. The holder of a state-issued certificate of franchise authority shall update its maps and plans annually and provide the same to the affected municipality or county. Any modification to the existing approved plan shall be submitted to the affected county or municipality for approval as provided herein. In the event the municipality or county rejects the plan, such rejection notice shall be in writing and shall contain the reasons for the action taken. In the event the submitted plan is rejected, the certificate holder may seek redress in a court of competent jurisdiction in the state of Tennessee as otherwise provided by law or resubmit a revised plan to such municipality or county for consideration. Any such resubmitted plan shall be reviewed in accordance herewith. Any construction delay beyond any terms approved in the plan, unless specifically approved by the municipality or county, shall be considered a violation of this section and the applicable franchise. In the event of a breach as provided above, in addition to all other rights and powers of such municipality or county, after notice and a hearing, the municipality or county shall have the right to forfeit and terminate the franchise and all the rights and privileges of a company hereunder. Any such forfeiture or termination notice shall be promptly delivered in writing to the holder of the state certificate setting forth the reasons for the action taken. A copy of such notice shall be sent to the Tennessee regulatory authority. The provisions of this section shall not constitute a breach if the violation occurs but is without fault of the holder or occurs as a result of a force majeure. A holder shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers, or employees.